

REMARKS

INTRODUCTION:

Claims 1-11 are pending and under consideration.

AMENDMENT TO SPECIFICATION:

In the Office Action, at page 2, the Examiner noted that the comparative examples make reference to a "▼-type TiOPC." Applicants confirm that this is a typographical error. Paragraphs 63-70 have been amended to replace "▼-type TiOPC," with "α-type TiOPC."

DOUBLE PATENTING REJECTIONS:

In the Office Action, at page 2, the Examiner provisionally rejected claims 1-7, and 11 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7, 8, 20, 21, 26, and 29 of copending Application No. 10/964,740, for the reasons set forth therein. The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

In the Office Action, at page 3, the Examiner provisionally rejected claims 8-10 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7, 8, 20, 21, 26, and 29 of copending Application No. 10/964,740 in view of *Handbook of Imaging Materials* 2nd edition to Diamond et al. pp. 381-2, for the reasons set forth therein. The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

Application No. 10/964,740 has not yet been examined. An IDS has been filed in Application No. 10/964,740 listing the subject application as co-pending.

MPEP § 804, subsection I.B.1, sets forth the practice to determine which application a terminal disclaimer should be filed in. This subsection recites: "[I]f 'provisional' ODP rejections in two applications are the only rejections remaining in those applications, the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer. A terminal disclaimer must be required in the later-filed application before the ODP rejection can be withdrawn and the application permitted to issue. If both applications are filed on the same day, the examiner should determine which application claims the base invention and which application claims the improvement (added limitations). The ODP rejection in the base application can be withdrawn without a terminal

disclaimer, while the ODP rejection in the improvement application cannot be withdrawn without a terminal disclaimer." (MPEP § 804, subsection I.B.1).

Accordingly, since the subject application is the earlier-filed of the two, and since the later-filed application (10/964,740) has not yet been examined, Applicants respectfully submit that the Examiner should withdraw the ODP rejections in the subject application, and allow the subject application to issue without need of a terminal disclaimer.

CONCLUSION:

In accordance with the foregoing, Applicants respectfully submit that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the cited art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

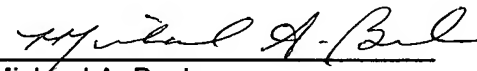
If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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